REMARKS/ARGUMENTS

Claims 1-15, 18-20, 23, and 24 have been examined. Claims 1-7 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Pat. No. 6,614,987 ("Ismail"); Claims 8, 11,13, and 14 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Ismail in view of U.S. Pat. No. 5,530,754 ("Garfinkle"); Claims 9, 10, and 12 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Ismail in view of Garfinkle and further in view of U.S. Pat. No. 5,604,528 ("Edwards"); Claim 15 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Ismail as applied to Claim 1, and in further view of Edwards; Claims 18-20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Ismail in view of U.S. Pat. No. 5,790,935 ("Payton"); Claim 20 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Ismail and Payton as applied to claim 18, and in further view of Edwards; and Claim 1 stands provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1 and 20 of co-pending Application No. 09/687,148 ("'148") in view of Garfinkle.

Independent claims 1, 18, and 23 have been amended to clarify that the transmitting and storing steps are performed by the same entity ("the content provider") and that the storage of counterparts is performed at a different time then the transmission. No new matter is added by such amendments. (*See, e.g.*, Application, p. 22, l. 29 – p. 23, l. 6). Such an arrangement provides for transmission of broadcast programming according to a defined schedule, with some of the broadcast programs being available to be played on demand under a user's control by also being stored on the local server (*see, e.g.*, Application, p. 5, ll. 1 – 8 describing the general functionality of the "club").

The resulting combination of limitations is neither taught nor suggested by the prior art. For example, Ismail does not teach or suggest transmission and storage of corresponding programs by a single entity at different times as now embodied by the amended claims. Ismail discloses a system in which subscribers can choose a particular broadcast programming based on channel or time (Ismail, col. 3, ll. 18-31; col. 9, ll. 60-66; col. 10, ll. 15-20). The system then records the broadcast programs in the subscriber equipment based upon the

subscriber's viewing preference and other factors (*Id.*, col. 3, ll. 9-20; col. 3, l. 65 - col. 4, l. 34; col. 6, ll. 18-52; col. 10, ll. 3-31). Thus, Ismail teaches a system where a television provider transmits a television program and a subscriber records a television program. This is in marked contrast to the amended claims, in which a single party both transmits and stores the corresponding programs.

The provisional double patenting rejection is noted. Applicants will consider submission of a terminal disclaimer should the provisional rejection mature into a rejection.

For these reasons, it is believed that each of the independent claims is patentable over the cited art, and that the dependent claims are patentable by virtue of their dependence from patentable claims.

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 303-571-4000.

Respectfully submitted,

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